EXECUTIVE PROCLAMATION

Office of the Governor

State Capitol

Pierre, South Dakota

WHEREAS, The Office of the Governor has received information that gasoline from the storage tanks of a gasoline station located at 5212 West 12th Street in Sioux Falls, South Dakota, has escaped or leaked into the subsurface of the land under and surrounding the service station; and,

WHEREAS, Fumes from such gasoline have been found in a public store called Shop-N-Cart and this store is located less than 100 yards from the service station. A well in the basement of such store has been found to contain six feet of gasoline. Fumes just under the gravel floor of the building have been found at explosive levels and such condition could likely occur within the environment of the store of the basement itself with a change in condition such as humidity; and,

WHEREAS, It is estimated that at least 8,000 gallons of gasoline have leaked out of the storage tanks. Although some of the gas has been located under the store, much of the remaining gas is likely located in other geological pockets surrounding the vicinity of the service station. At this time it is not known how far the gas has migrated from the service station property. It is considered likely by geologists and hydrologists that with the spring thaws and likely rising ground water levels that some of this gasoline will migrate farther from the service station with the danger of underground and surface water pollution; and,

WHEREAS, The State has contacted the Shop-N-Cart lessee, Mr. Grevlos, the present lessee of Bill's APCO, the former lessee of Bill's APCO, Bill Haverling, and the lessor of the service station, Tom Taylor. None of these parties are willing to admit liability or to take corrective action. The county state's attorney, civil defense director, and two county commissioners have all indicated that the county will not take action to correct the present and immediate safety hazard in the Shop-N-Cart because of fears of legal liability problems. Private contractors have been contacted to see if they are willing to pump the gasoline out from under the Shop-N-Cart. Although a technical solution seems to be feasible, these contractors presently are not willing to undertake this task for fear of liability arising out of such action. Thus, an imminent safety hazard exists in the area around the Shop-N-Cart store; and to determine the extent and nature of the gasoline migration, to determine if there is a feasible solution to recovering the gas which is beyond the Shop-N-Cart to prevent water pollution, and to protect the public health and safety, monitoring wells need to be drilled in an area surrounding the service station and Shop-N-Cart:

NOW, THEREFORE, I, WILLIAM J. JANKLOW, Governor of the State of South Dakota, under the provisions of SDCL 33-15-1, et seq., Article IV, Section 3 of the South Dakota Constitution, SDCL 21-10-1, et seq., and other common law and police powers of the State, declare an emergency situation and public nuisance exists in an area extending one block in all directions from the above-described Shop-N-Cart store in Sioux Falls, South Dakota; and

IT IS FURTHER DECLARED that the Department of Environmental Protection, in conjunction with the Adjutant General take steps to abate the public danger. The Environmental Protection Agency is empowered to consult and seek assistance from all state and local public entities of the State of South Dakota to take whatever action is needed to abate the emergency situation. This shall include the hiring, renting or leasing of private contractors or equipment; and

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPHIC IMAGE APPEARING ON THIS SLIDE OF MICROFILM IS AN ACCURATE REPRODUCTION OF THE ORIGINAL RECORD AND WAS MICROFILMED IN THE REGULAR COURSE OF BUSINESS ACCORDING TO THE PROVISIONS OF SOUTH DAKOTA COMPILED LAW 1-27-4. IT IS FURTHER CERTIFIED THAT THE PHOTOGRAPHIC PROCESS USED FOR MICROFILMING OF THE ABOVE RECORDS WAS IN A MANNER AND ON MICROFILM WHICH MEET THE RECOMMENDED REQUIREMENTS OF THE NATIONAL BUREAU OF STANDARDS FOR PERMANENT MICROPHOTOGRAPHIC REPRODUCTIONS. REDUCTION 25 ROLL NO 2
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IT IS FURTHER DECLARED that should Minnehaha County not be willing to temporarily fund this action, the present funding for interim payment of the costs of this action shall be paid from the Special Emergency and Disaster Fund; and

IT IS FURTHER DECLARED that the Attorney General's Office is directed to take any action necessary to recover all State costs of these actions and return the funds to the Special Emergency and Disaster Fund.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of South Dakota, in Pierre, the Capital City, this Twelfth Day of March, in the Year of Our Lord, Nineteen Hundred and Seventy-Nine

WILLIAM J. JANKLOW, GOVERNOR

ATTEST:

ALICE KUNDERT, SECRETARY OF STATE